

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - MIDDLESEX COUNTY
3 DOCKET NO. MID-1809-17AS
4 APPELLATE DOCKET NO. _____
5
6 DOUGLAS AND ROSALYN BARDEN,)
7) TRIAL
8 Plaintiff,)
9)
10 v.)
11) (VOLUME 1 OF 2)
12 BRENNTAG NORTH AMERICA, et al.,)
13 Defendants.)
14 -----)
15 DAVID CHARLES ETHERIDGE AND)
16 DARLENE PASTORE ETHERIDGE,) MID-L-0932-17AS
17)
18 Plaintiffs,)
19)
20 v.)
21)
22 BRENNTAG NORTH AMERICA, et al.,)
23 Defendants.)
24 -----)
25 D'ANGELA McNEILL-GEORGE,)
MID-L-7049-16AS
Plaintiff,)
v.)
BRENNTAG NORTH AMERICA, et al.,)
Defendants.)
-----)
WILLIAM AND ELIZABETH RONNING,)
MID-L-6040-17AS
Plaintiffs,)
v.)
BRENNTAG NORTH AMERICA, et al.,)
Defendants.)
Job No. NJ3446610

EXHIBIT

601.001

1 A. Sounds crazy. That's my
2 understanding, that they own the domain name but
3 they do not control what goes onto the website.

4 Q. I agree with you, it does sound
5 crazy. Because you're saying --

6 MS. SULLIVAN: Objection, your Honor,
7 lawyer argument.

8 MR. PANATIER: It does sound crazy.

9 THE COURT: Objection sustained.

10 No speaking objections. That's the
11 second time.

12 BY MR. PANATIER:

13 Q. Dr. Hopkins, your testimony to this
14 jury is that Johnson & Johnson -- by the way, this
15 is a huge company, right, everybody knows that?

16 A. Yes.

17 Q. Okay. That Johnson & Johnson owns a
18 website domain name and they conceded all control of
19 that domain name to somebody else; is that correct?

20 A. I've not seen the terms of the
21 agreement. But what I do know is that the content
22 of what is written on that website is not approved
23 or disapproved by Johnson & Johnson. They don't
24 take responsibility for what is written on that
25 website.

1 Q. Let's take a look at BabyCenter.com.

2 MS. SULLIVAN: Your Honor, based on
3 the testimony, objection as to hearsay.

4 THE COURT: I'm going to allow him to
5 try to establish foundation for it.

6 Go ahead.

7 MR. PANATIER: We'll get the
8 document. We'll move ahead and do that.

9 THE COURT: Okay.

10 BY MR. PANATIER:

11 Q. We'll come back to Baby Center, okay.
12 We can bookmark this with this
13 question.

14 Johnson & Johnson, certainly, doesn't
15 put on its baby powder or any of its talc a warning
16 that says, this may contain asbestos, does it?

17 A. No, it doesn't.

18 Q. It doesn't put a warning on it that
19 says, do not use on babies?

20 A. No, it doesn't.

21 Q. Right. Because it's, specifically,
22 marketed for babies, right?

23 A. Yes.

24 Q. Johnson & Johnson has always stated
25 that it has a zero tolerance policy for asbestos,

1 correct?

2 A. Yes.

3 Q. And Johnson & Johnson has always told
4 the public that there's never been a single fiber of
5 asbestos in any of its talc for Johnson's Baby
6 Powder or Shower to Shower, correct?

7 A. Yes.

8 Q. It told that to customers, nurses,
9 doctors and regulators and hospitals, correct?

10 A. Yes.

11 Q. Johnson & Johnson has stated that
12 there should never ever ever be asbestos in baby
13 powder, not a single fiber, zero, correct?

14 A. I can't remember the exact
15 phraseology, but the principle is the same. I'll
16 agree with the principle, correct.

17 Q. Well, okay. And just to separate
18 that out, Johnson & Johnson agrees today now in 2019
19 that baby powder should never have any asbestos in
20 it, correct?

21 A. Yes.

22 Q. That means zero asbestos, correct?

23 A. Yeah, it's non-detected. You can't
24 find it. There's none there, yes.

25 Q. We're going to get into what

1 "non-detect" means.

2 MS. SULLIVAN: Objection, your Honor.

3 THE COURT: Overruled.

4 Q. There shouldn't be any asbestos in
5 baby powder, period, correct?

6 A. Yes.

7 Q. It should be asbestos-free, correct?

8 A. Yes.

9 Q. "Asbestos-free" means zero, correct?

10 A. Yes.

11 Q. As you have said before, any amount
12 of tremolite in the form of asbestos, quote, "those
13 needles," like you say, any amount is not allowed,
14 correct?

15 A. Tremolite -- I know what I said.
16 Tremolite asbestos is not allowed. Tremolite is a
17 relatively harmless mineral in its block or rock
18 form.

19 Q. You have stated before that asbestos
20 in the form of needles such as tremolite shouldn't
21 be in the baby powder?

22 A. Asbestos should not be in baby
23 powder. Tremolite can occur -- most tremolite
24 occurs in the form of a nonasbestos form or rod
25 form.

1 Q. Has Johnson & Johnson always
2 internally believed in a zero tolerance policy for
3 asbestos?

4 A. That is my understanding, yes.

5 Q. You agree any asbestos in baby powder
6 is too much?

7 A. Yeah, that's what we just said, yes.

8 Q. The reason is that no mother or
9 father would ever buy any baby powder if it even had
10 one fiber of asbestos in it, correct?

11 A. Well, you're asking me to speculate.
12 But if the product had asbestos in it, I wouldn't
13 buy it.

14 Q. Right.

15 And Johnson & Johnson's expectation
16 would be that no one else would buy it either,
17 right?

18 A. Well, it's speculative, but it's a
19 reasonable speculation.

20 Q. And Johnson & Johnson knows that
21 asbestos in its talc could make people sick because
22 Johnson & Johnson knows that asbestos is a
23 carcinogen and causes mesothelioma, correct?

24 A. Several questions there.

25 Asbestos causes -- can cause

1 mesothelioma, correct, yes.

2 Q. Well, let's just go to -- go to
3 8/15/17, it's the first one, Page 33.

4 MS. SULLIVAN: What line, Counsel?

5 MR. PANATIER: Give me a second.

6 BY MR. PANATIER:

7 Q. Okay. First of all, Johnson &
8 Johnson agrees asbestos is a carcinogen, correct?

9 A. Yes.

10 Q. And Johnson & Johnson agrees that no
11 carcinogen should be contained in the Johnson's Baby
12 Powder, correct?

13 A. Yes.

14 Q. Okay. Go to 4/11/2018 on Page 108.
15 Are you there?

16 A. Yes.

17 Q. Okay. On Line 18, you were asked
18 this question.

19 MS. SULLIVAN: Objection, your Honor,
20 in terms of the procedure. This is not (INAUDIBLE).
21 I'm not sure --

22 MR. PANATIER: It is.

23 THE COURT: Sidebar.

24 (Sidebar.)

25 THE COURT: Okay. Page, what are

1 we --

2 MR. PANATIER: 108, Line 18 through
3 22. This is the exact question I asked him before
4 and he didn't answer. He said, I agree it's a
5 carcinogen, but that's not the question. He said, I
6 agree it's a carcinogen --

7 THE COURT: Well, this time the same
8 question. You said it's a compound question. So
9 I'll allow it. Go ahead.

10 MR. PANATIER: Thank you, your Honor.

11 MS. SULLIVAN: Thank you.

12 (Sidebar ends.)

13 BY MR. PANATIER:

14 Q. Doctor, you were asked this question,
15 "Johnson & Johnson knows that asbestos in its talc
16 could make people sick because Johnson & Johnson
17 knows asbestos is a carcinogen and can cause
18 mesothelioma?"

19 And what was your answer?

20 A. What page are you on, again?

21 Q. Same Page, 108.

22 A. 108. Beg your pardon, I was on a
23 different page.

24 Q. Line 18 through 22. Your answer was,
25 "That is correct."